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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 May 1996, at 11 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 11.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Guatemala (E/1990/5/Add.24; core document HRI/CORE/1/Add.47; list of issues (E/C.12/1995/LQ.9); written replies distributed without a symbol in English and Spanish) (continued)

1. The CHAIRPERSON invited the Guatemalan delegation to continue its answers to the questions put to it at previous meetings. He also invited the members of the Committee to seek any further clarification they deemed necessary.

2. Mr. ARRANZ SANZ (Guatemala) said that he saw the concerns expressed by Committee members not as criticisms but as a mark of interest in the difficulties being experienced by his country. He would endeavour to group by subject his replies to the questions asked at the previous meeting and would comment on the context and methods of implementing the measures provided for by the Government. There was, of course, a time-lag between the Government's intentions and the laws, on the one hand, and action, on the other. The Committee would, however, no doubt appreciate that the realities of a situation could not be changed with one wave of a magic wand.

3. For a proper understanding of the existing situation, it had to be appreciated that the internal armed conflict, which had lasted 35 long years and had, it was to be hoped, come to an end at last, had been brought about by socio-economic problems. It had subsequently assumed a definitely ideological character, and the socio-economic aspects had been pushed into the background. But with the collapse of the major ideologies, the original causes of the conflict had been shown up again, and that was the context in which the negotiations between the Government and the UNRG that had led to the end of the conflict had taken place. It was now the Government's intention to strengthen civil society in the hope that by relying on that society, it could guarantee peace and national reconstruction.

4. As a token of its political determination to transform the country, the Government had entered into specific commitments in a number of areas; it trusted that the international community would monitor the observance of those commitments. Ramiro de León Carpio, the former President, had already made the following entreaty to international bodies: "Please, bring pressure to bear on us" ("us" meaning the Government and the guerrillas). The Guatemalan Government was still calling for positive pressure and marks of solidarity from the international community, since it was convinced that it could not on its own solve all the problems it faced and that aid was just as important when peace had been achieved after a long conflict.

5. The Government in the agreements reached at the negotiating table, had entered into undertakings on its own behalf and on that of the population. Those undertakings would have a significant impact on economic, social and cultural rights inasmuch as their purpose was to solve the actual causes of

the conflict. They set forth guidelines but made no reference to special programmes, which were drawn up by joint commissions composed of representatives from the national authorities and from civil society. As already noted, the Government intended to encourage the emergence of a participatory environment and placed considerable reliance on the participation of representatives of civil society in restoring conditions conducive to the exercise of economic, social and cultural rights throughout the country.

6. The various agreements reached at the negotiating table included, first, an agreement on the identity and rights of the indigenous people which recognized the pluricultural, multi-ethnic and multilingual character of the Guatemalan State. It provided for the elimination of all forms of discrimination against the indigenous peoples, the participation of indigenous peoples in decisions of concern to them, and recognition of the economic, social and cultural rights of the indigenous people. To that end, the Government had undertaken to introduce the necessary constitutional and legal changes. Under the agreement, the Government also undertook to protect the situation of indigenous women - it had, for example, tabled a bill in parliament making sexual harassment of indigenous women a criminal offence and had set up a body for the protection of the rights of indigenous women - and to promote indigenous languages and make their use official. Since there were 21 Maya languages alone, it would be a slow and difficult task to make their use official since all aspects of life, and particularly the names of persons and place names, were involved, with all the repercussions that had on entries into civil status and land registers. The agreement on identity and the right of indigenous peoples was also designed to foster the special spiritual nature of those peoples and respect for sacred places, to encourage the wearing of traditional costume and to recognize skills and techniques of Mayan origin. It recognized the authorities of the indigenous communities, the participation of indigenous people at all levels and the customary law and rights of indigenous people over land - a fundamental question that would be dealt with in more detail later. The five joint commissions provided for under the agreement were responsible for making the indigenous languages official, for sacred places, educational reform, questions of reform and participation, and the land tenure question, respectively. MINUGUA had been asked to make sure that the undertakings entered into were observed.

7. Uprooted peoples formed the subject of another agreement. The Government had entered into a number of commitments in that area too, in particular concerning the allocation of geographical areas, taxation, the establishment of zones of peace, the introduction of essential services for health, housing, education and nutrition, assistance for professional rehabilitation of uprooted persons and the granting of aid for women heads of family who could now be the recipients of a loan or of financing. The agreement also provided for the creation of joint commissions composed of representatives of uprooted people, the Government and international bodies which were made responsible for ensuring that the measures contemplated were implemented.

8. His delegation had the previous day received the text of an agreement on economic and social problems which he would transmit to the Committee for it to take into account when it came to evaluate the situation in Guatemala. The agreement, which should transform Guatemalan society, dealt with education,

vocational training and health, among other matters. In the case of health, it placed emphasis on prevention and rehabilitation and also on the strengthening of the Ministry of Health and the implementation of policies that would enable the whole of the Guatemalan population, including those on low incomes, to have access to the health services. By the year 2000, the Government planned to have increased the public resources devoted to health by at least 50 per cent compared with 1995. That figure would be revised upwards if trends in the taxation situation so permitted; a taxation reform was envisaged to that end. The agreement also dealt with indigenous and traditional medicine, social participation and decentralization of the health administration.

9. The agreement treated social security as a tool of solidarity, for the purposes of social welfare. It provided for the fully independent administrative management of the Guatemalan Institute of Social Security. Under the relevant ILO Convention, which Guatemala had ratified, social security must provide for medical care programmes and sickness, maternity, old-age, invalidity and unemployment benefits. The principle of the universality of the Guatemalan Institute of Social Security would have to be strengthened and the conditions created to facilitate the social security coverage of all workers including, for example, domestic employees.

10. Under the agreement, the Government would endeavour to make good the housing deficit and improve existing housing. A physical planning policy would be implemented to enable the most deprived to have access to adequate housing. Furthermore, standards of building safety and hygiene would be updated in coordination with the country's local councils. A policy for increasing the supply of housing throughout the country would be introduced and the supply of services, accommodation and building materials would be promoted. Also, a new monetary policy would be introduced to reduce the cost of loans and open up access to housing. To that end, the Government undertook to devote at least 1.5 per cent of the budget, as from 1997, to housing development policy. Priority would be given to the financing of low-cost housing.

11. As to employment, the Government would endeavour to decentralize and extend work inspection services with a view to strengthening the monitoring of the application of the labour standards laid down in various conventions ratified by the Government, special attention being paid to the labour rights of women and of agricultural migrant and seasonal workers, as well as of the elderly, minors and the vulnerable categories of the population. In addition, the Government would do all in its power to strengthen and modernize the Ministry of Labour.

12. Agrarian and rural development involved not so much the introduction of agrarian reform as improvement of the agricultural sector. The Government would facilitate the access of peasants to land ownership and rational land use. To that end, it would create a Special Fund (Fondo de tierras) by means of a joint loan and savings banking institution for the use of small and medium-sized farmers. The Fund would deal with public financing and land acquisition, encourage the introduction of a transparent market in land and promote the elaboration of territorial reorganization programmes. Under the policy for the granting of land, priority would be given to the peasants who

would form organizations for the purpose, with due regard for the criteria of economic and environmental durability. The Fund would be made up initially of landed property consisting of fallow land and real estate belonging to the nation; land which had been allocated in an irregular manner in some settlement areas and particularly at Petén (the Government undertook to recover that land through legal channels; in point of fact, it had been allocated in an irregular manner in the past owing to the lack of a land registry); land the Government would acquire with resources intended for the Fonatierra and Fonapaz Funds, set up to purchase from the owners land not in use for transfer to displaced persons or persons who returned to Guatemala; land purchased through donations from friendly Governments and international non-governmental organizations (NGOs); land obtained with loans from international finance agencies; land not in use that was subject to expropriation in accordance with article 14 of the Constitution; and land that would be acquired with resources derived from the sale of private land of a surface area not corresponding to that registered with the competent public body.

13. The CHAIRPERSON invited questions from members of the Committee, particularly concerning the last agreement referred to.

14. Mr. CEAUSU, welcoming the delegation's detailed statement, said that he would like it to provide the Committee by way of illustration with some data supported by figures. So far as land distribution and the Fondo de tierras were concerned, would it be possible to request land owners to surrender any land they were not using for distribution to those who had none?

15. Mr. GRISSA said that he was gratified at the measures the Government was committed to taking. Did it plan to limit the area of landed property and could the measures contemplated apply to property belonging to the Church as well?

16. Mrs. BONOAN-DANDAN said that she would like to know whether there were any "ancestral lands" in Guatemala which belonged to the indigenous people. If so, what was the Government's approach to the matter?

17. Mr. TEXIER said that the delegation and the committee were bound to welcome the signing of the recent agreement, which was of fundamental importance for Guatemala's future. He also welcomed, among other things, the reforms envisaged by the Ministry of Health. He feared however that the questions of discrimination and possession of land might be the most difficult to settle, particularly bearing in mind that the question of land tenure was at the root of the conflict that had occurred in Guatemala. In his view, society at large must be involved in such measures: some reticence could be expected from the owners of the large landed estates and the more conservative sectors of society so far as reorganization of land tenure was concerned. To give effect to those measures the Government would need considerable financial means as well as political will. What was its planned budget for the implementation of such reforms? What part would international cooperation play in the economic and social aspects of the peace agreements that had been signed a few days earlier? In his view, civil society as a whole should be associated in those agreements. Once MINUGUA had completed its task, a firm commitment would be needed - on the part of the Government, the guerrillas,

when they had become a political force, the Guatemalan people and the international community to which the Committee should make a strong appeal - if those medium- and long-term changes were to be implemented effectively.

18. Mr. ALVAREZ VITA said that the information about the political process that had just started in Guatemala, with which the Guatemalan delegation had provided the Committee in its oral presentation, was fascinating. Although all the projects the Guatemalan Government hoped to undertake were interesting, it was doubtful whether they could be financed without significant international aid. He would like to know whether the "sacred places" referred to by the Guatemalan delegation were lands devoted to pre-Hispanic religious rites. He would also like to know whether the Government planned to recognize officially the exercise of the traditional medicine of the indigenous peoples. Lastly, he would like to know whether the lands the Guatemalan Government hoped to redistribute had been the subject of a detailed study. Were they productive or barren lands? Were lands belonging to indigenous people protected against eviction measures? Was the land that was uncultivated good and workable land?

19. Mrs. JIMENEZ BUTRAGUEÑO said that it would be useful for the Committee to know how the Guatemalan Government planned to implement tax reforms and whether it was contemplating, for example, modifying the share of the tax burden to the detriment of the privileged classes.

20. Mr. ARRANZ SANZ (Guatemala), thanking the Committee for its interest in the situation in Guatemala, said that the agreement concluded only recently by the Guatemalan Government, on which he had just commented, was part of a medium- and long-term strategy that would make it possible to tackle the root causes of the armed movement. The Government's programme of action included in particular tax reforms over a period of six to seven years which should release the necessary funds to finance the changes envisaged.

21. The uncultivated land was not unproductive or barren land but land that, for various reasons, was not worked. So far as protecting the properties of indigenous persons was concerned, the Government was hoping to update the land registers so that the ownership of small indigenous owners was duly recorded. Eviction measures were taken only against those who occupied land belonging to private individuals; every eviction measure was based on a properly drawn up judicial order and was carried out peacefully. The Government had also set up a land commission to study measures to prevent occupations of land and evictions. Contrary to certain information, since 1995 only 130 farms had been occupied. The agreement just concluded by the Government laid down the bases for a solution to the very tricky problem of land ownership. It was important to note, however, that, strictly speaking, what was involved was not agrarian reform but a modernization of land resources in which civil society was playing an active part.

22. The only limitations applicable to private property were those defined in the law on uncultivated land. The rights of owners of other types of land were limited only by the constitutional principle that the general interest prevailed over individual interests. Expropriation was permitted under the law on uncultivated land. Indigenous medicine was not subject to any official regulation and was simply practised traditionally by indigenous peoples to treat themselves.

23. With regard to Mr. Alvarez Vita's question concerning the cultural practices of the indigenous people, the Guatemalan Government respected their cultural choices and had no intention of imposing on them language or clothing of any particular kind. On the contrary, the Government would ensure that the cultural realities of the indigenous population were studied in educational programmes.

24. As to "sacred places" pre-Hispanic sites did exist in Guatemala, particularly temples sited in protected areas. The Guatemalan Government intended to respect the religious practices of the indigenous people and would not attempt to impose Western culture upon them. He would add, for the information of Mr. Alvarez Vita, that the question of ancestral lands had still not been examined in detail. The Government was not, however, expecting to buy back ancestral lands but merely to bring the land registers up to date so as to record the legitimate owners of real estate.

25. With regard to Mr. Grissa's question concerning ecclesiastical land, in accordance with the Constitution the State issued the Roman Catholic Church with documents of title to property that had already belonged to it for a number of years except for land that the State set aside for public utility services.

26. With regard to Mr. Texier's question concerning the cost of the peace agreements, the cost of each undertaking signed by the Government had been spelt out in detail; he would supply the Committee with precise information in that connection before the end of the session. The Paris Club had, however, promised to finance the implementation of projects that resulted from the peace agreements.

27. With regard to question 21 on the list of issues (E/C.12/1995/LQ.9), in 1995 the Fund for the Rehabilitation of Workers and Producers had invested 27 million quetzales in the purchase of agricultural holdings with a total area of approximately 387 caballerías (about 16,560 hectares), which had been redistributed to 911 families. The Fund was studying the possibility of purchasing 46 holdings which would be allotted to displaced persons or refugees on the basis of the productive capacity, not the area, of those plots.

28. Mr. WIMER ZAMBRANO said that there had been a marked change in the situation since the last major agrarian reform undertaken by President Arbenz in the 1950s and, for the first time in its recent history, Guatemala had a civilian Government, dominated neither by the military nor by the landowners. What he would like to have was not precise statistical data on the current reform but a general indication of the extent of that reform. He would also like to know the maximum land area that a single landowner could have. He further inquired who, apart from the large landowners and transnationals, were opposed to the project, and what other obstacles there were to its realization.

29. Mr. ARRANZ SANZ (Guatemala) said that he could not yet give a precise indication of the extent of the agrarian reform but one thing was certain: the plan was to provide every needy family with the land needed to live, bearing in mind its productivity. In all, one third of Guatemalan land could be involved, since much of it lay fallow for the reasons already given.

30. The question of compulsory military service was currently being examined. The Congress of the Republic had before it three bills on the introduction of a voluntary military service and recognition of conscientious objection. The first bill emanated from the second largest Guatemalan party, the Guatemalan Republican Front (FRC); the second had been submitted by the Frente Nueva Guatemalan, to which a third of the deputies in Congress belonged; and the third came from the army itself. As far back as 1995, by decision of former President Ramiro de León Carpio, forced recruitment had been halted, as was recognized by MINUGUA and various supervisory bodies in Guatemala. Also, it was no longer the practice, despite a few exceptions, to recruit minors.

31. Mr. TEXIER said that he was pleased there was no longer any forced recruitment. He would, however, like to know whether the civil defence patrols had been disbanded or whether they continued to recruit.

32. Mr. ARRANZ SANZ (Guatemala) said that the civil defence patrols still existed. The Government had undertaken not to create new ones and to allow those that did exist to disband. They had been set up in the 1980s and, in principle, recruited on a voluntary basis. For the past two years, the voluntary nature of the recruitment had been highlighted so that everyone would be aware of it. In 1994, a study carried out by the office of the Procurator for human rights to check whether recruitment had indeed been effected on a voluntary basis had reported moral pressure, showing that, in some cases, the voluntary aspect had been more formal than real. The creation of new patrols was not encouraged. They would all be disbanded when the final peace agreements were signed. The Government had undertaken to prosecute and punish members of the patrols who violated the human rights.

33. The problem of street children was of great concern on account not of their number - in a country where 46 per cent of the population were under 15 years of age, they represented but a small proportion - but of their tragic lives as the victims of very serious acts of violence which, until recently, went completely unpunished. Matters were starting to change and a standing body set up by the presidential commission on coordination of the policy of the executive in the matter of human rights (COPREDH) was following the developing situation of those children. A large foundation was currently being set up to help them, as was a programme administered by the Office of the Procurator for human rights with the assistance of the European Union to start up projects for such children. The main problem facing Guatemala, however, was not the street children but children who were victims of violence and children who were displaced because of the war. Guatemala was making a major effort to resolve those difficulties, but the social and economic situation did little to help. A new code of the minor, currently before the Congress of the Republic on third reading, proposed more realistic solutions to the problem of children who were in conflict with the law.

34. Mr. MARCHAN ROMERO said that he was surprised to find no reference to the use of narcotics in the report. Did that mean there was no such problem in Guatemala?

The meeting rose at 1 p.m.